

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-210779.2

DATE: June 27, 1983

MATTER OF: Eagle Crusher Company, Inc.--Recon-
sideration

DIGEST:

Request for reconsideration is dismissed as academic where requesting firm has been awarded a contract under disputed procurement.

Eagle Crusher Company, Inc. requests reconsideration of our decision, Eagle Crusher Company, Inc., B-210779, March 8, 1983, 83-1 CPD 237, involving the procurement of one portable stone crusher by the Defense Logistics Agency (DLA) under solicitation No. DLA-83-B-0390.

In our prior decision we denied Eagle's protest that the subject procurement should have been set aside for small business. We concluded that, with certain exceptions, nothing in the Small Business Act or regulations mandates that any particular procurement be set aside for small business.

In its reconsideration request, the protester essentially reargues its earlier points concerning the merits of setting the procurement aside for small business and raises one new argument--that DLA improperly considered big business planned producers in the instant procurement to the detriment of small firms capable of satisfying the Department of Defense's needs for crusher plants.¹

¹Defense Acquisition Regulation § 1-2201(d) defines a "planned producer" as "an industrial firm which has indicated its willingness to produce specified military items in a national emergency by completing an Industrial Preparedness Program Production Planning Schedule (DD Form 1519)."

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We have been advised by the agency that Eagle has been awarded a contract as the low bidder under the subject solicitation. Award of the contract to Eagle renders its request for reconsideration academic since the agency has done what the protester had originally requested in its initial protest--awarded the contract to a small business. See Andrew Corporation, B-197203, February 23, 1981, 81-1 CPD 124.

The request for reconsideration is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel